NPDES PERMIT NO. NM0028011
STATEMENT OF BASIS

FOR THE DRAFT NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM (NPDES) PERMIT TO DISCHARGE TO WATERS OF THE UNITED STATES

I. APPLICANTS

Village of Jemez Springs
P. O. Box 269
Jemez Springs, NM 87025

II. ISSUING OFFICE

U.S. Environmental Protection Agency
Region 6
1445 Ross Avenue
Dallas, Texas 75202-2733

III. PREPARED BY

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IV. DATE PREPARED

July 26, 2006

V. PERMIT ACTION

Proposed reissuance of the current National Pollutant Discharge Elimination System (NPDES) permit issued August 16, 2004, with an effective date of October 1, 2004 and an expiration date of December 31, 2006.

Unless otherwise stated, citations to 40 CFR refer to promulgated regulations listed in Title 40, Code of Federal Regulations, revised as of July 17, 2006.

VI. CHANGES FROM THE PREVIOUS PERMIT

A. The parameter pH has been made more restrictive
B. Whole effluent toxicity (biomonitoring) provisions have been added to the draft permit
C. E. coli bacteria limitations have been added

VII. DISCHARGE LOCATION

As described in the application, the plant site is located at 14609 Highway 4, approximately 2 miles south of Jemez Springs, Sandoval County, New Mexico. The discharge is to receiving waters named Jemez River thence to the Rio Grande in Waterbody Segment No. 20.6.4.107 of the Rio Grande Basin. The discharge is located at Latitude 35° 43' 36" North, Longitude 106° 42' 48" West.

VIII. RECEIVING STREAM STANDARDS

The general and specific stream standards are provided in "New Mexico State Standards for Interstate and Intrastate Surface Waters," (20.6.4 NMAC, amended through February 16, 2006). The known uses of the receiving water(s) are cold water aquatic life, irrigation, livestock watering, wildlife habitat and primary contact.

Comment [1]: {NEW MEXICO OPTIONS - CHOOSE ALL THAT APPLY}

IX. APPLICANT ACTIVITY

Under the Standard Industrial Classification (SIC) Code 4952, the applicant operates a publicly owned treatment works (POTW) treating domestic waste only. The facility serves a population of approximately 400.

The Village of Jemez Springs completed a new WWTP January 7, 2003. The new plant is an intermittent cycle extended aeration system put on line March 2003. The facility has two biological basins with a third sludge holding basin. The effluent goes through aeration and mixing, settling, nitrification/denitrification then decanting of the wastewater. From the biological reactors the effluent is then treated with ultraviolet (UV) light for pathogen control. If needed, the effluent can be further treated in sand bed filters. If the discharge is sent through the sand filters, then it is treated with chlorine prior to discharge.

X. SEWAGE SLUDGE PRACTICES

The sludge is removed by a contractor, then transported to the Sandoval County Landfill, where it would be applied to the surface in accordance with 40 CFR Part 503 regulations.

XI. EFFLUENT CHARACTERISTICS

A quantitative description of the discharge(s) described in the EPA Permit Application Form 2A dated June 27, 2006, and other salient data are presented below:

Parameter	avg (mg/l unless noted)	max
Flow, million gallons/day (MGD)	0.025	0.030
Temperature, winter	13.0 °C	13.7 °C
Temperature, summer	19.0 °C	20.2 °C
pH, minimum, standard units (SU)	---	7.1 su
pH, maximum, standard units (SU)	---	7.6 su
Biochemical Oxygen Demand, 5-day (BOD_5)	<3	28
Fecal Coliform (FCB) (bacteria/100 ml)	9	51
Total Suspended Solids (TSS)	2.6	6
Aluminum, total	33 ug/l	76 ug/l
Aluminum, dissolved	36 ug/l	53 ug/l

XII. DRAFT PERMIT RATIONALE AND PROPOSED PERMIT CONDITIONS

The proposed effluent limitations for those pollutants proposed to be limited are based on regulations promulgated at [40 CFR 122.44]. The draft permit limits are based on either technology-based effluent limits pursuant to [40 CFR 122.44(a)], on BPJ in the absence of guidelines, NM WQS and/or requirements pursuant to [40 CFR 122.44(d)], whichever are more stringent.

A. REASON FOR PERMIT ISSUANCE

It is proposed that the permit be issued for a 3-year term following regulations promulgated at [40 CFR 122.46(c)]. The proposed permit expiration date will coordinate with the EPA Basin Statewide Management Approach to Permitting in New Mexico, adopted March 2, 2000. This program also known as the Statewide Basin Management Approach to permitting is a comprehensive framework to better coordinate and integrate water resource management activities geographically by river basin.

Comment [LG2]: NOTE IN PERMIT

Comment [3]: COMMENT If the permit is for a 5-year term, citation should be 40 CFR 122.46(a)
If the permit is for less than 5-years, citation should be 40 CFR 122.46(c)

The permit application was received on July 5, 2006, and was determined to be administratively complete July 13, 2006.

B. TECHNOLOGY-BASED VERSUS WATER QUALITY STANDARDS-BASED EFFLUENT LIMITATIONS AND CONDITIONS

Following regulations promulgated at [40 CFR 122.44], the draft permit limits are based on either technology-based effluent limits pursuant to [40 CFR 122.44(a)] or on State WQS and requirements pursuant to [40 CFR 122.44(d)], whichever are more stringent.

Technology-based effluent limitations are established in the proposed permit for TSS and BOD_5.

Water quality-based effluent limitations are established in the proposed permit for TRC, FCB, pH, and E. coli bacteria. Reporting requirements are continued in the draft permit for total and dissolved aluminum.

C. TECHNOLOGY-BASED EFFLUENT LIMITATIONS/CONDITIONS

Regulations promulgated at [40 CFR 122.44(a)] require technology-based effluent limitations to be placed in NPDES permits based on effluent limitations guidelines where applicable, on BPJ (best professional judgment) in the absence of guidelines, or on a combination of the two.

Secondary treatment, established at [40 CFR 133.102(a)] and [40 CFR 133.102(b)] are 30 mg/l for the 30-day average and 45 mg/l for the 7-day average for BOD_5.

Final Effluent Limits 0.075 MGD design flow

EFFLUENT CHARACTERISTICS	DISCHARGE LIMITATIONS			
	lbs/Day		mg/l (unless noted)	
Parameter	30-Day Avg.	7-Day Avg.	30-Day Avg.	7-Day Avg.
Flow	N/A	N/A	Measure MGD	Measure MGD
BOD_5	18.8	28.1	30	45
TSS	18.8	28.1	30	45
PH	N/A	N/A	6.0 – 9.0 standard units	

TSS/BOD_5 loading (lbs/day) = 30 mg/l * 8.345 lbs/gal * 0.075 MGD = 18.8 lbs/day
TSS/BOD_5 loading (lbs/day) = 45 mg/l * 8.345 lbs/gal * 0.075 MGD = 28.1 lbs/day

D. MONITORING FREQUENCY FOR LIMITED PARAMETERS

Regulations require permits to establish monitoring requirements to yield data representative of the monitored activity, [40 CFR 122.48(b)], and to assure compliance with permit limitations, [40 CFR 122.44(i)(1)]. Technology based pollutants; BOD_5, pH and TSS, are proposed to be monitored once per month. Flow is proposed to be monitored continuously by totalizing meter. These frequencies are the same as the current permit.

E. SEWAGE SLUDGE PRACTICES

The permittee shall use only those sewage sludge disposal or reuse practices that comply with the federal regulations established in [40 CFR Part 503] "Standards for the Use or Disposal of Sewage Sludge". The specific requirements in the permit apply as a result of the design flow of the facility, the type of waste discharged to the collection system, and the sewage sludge disposal or reuse practice utilized by the treatment works.

Sludge testing information will be retained by the permittee for a minimum of five (5) years as required in the record keeping requirements section of Part IV, in accordance with NPDES Permit No. NM0028011.

F. WASTE WATER POLLUTION PREVENTION REQUIREMENTS

The permittee shall institute programs directed towards pollution prevention. The permittee will institute programs to improve the operating efficiency and extend the useful life of the treatment system.

G. INDUSTRIAL WASTEWATER CONTRIBUTIONS

The facility has no significant industrial users; therefore, EPA has determined that the permittee will not be required to develop a full pretreatment program.

H. OPERATION AND REPORTING

The applicant is required to operate the treatment facility at maximum efficiency at all times; to monitor the facility's discharge on a regular basis; and report the results quarterly. The monitoring results will be available to the public.

I. WATER QUALITY BASED LIMITATIONS

1. General Comments

Effluent limitations and/or conditions established in the draft permit are in compliance with State water quality standards and the applicable water quality management plan.

2. Post Third Round Policy and Strategy

Section 101 of the Clean Water Act (CWA) states that "...it is the national policy that the discharge of toxic pollutants in toxic amounts be prohibited..." To insure that the CWA's prohibitions on toxic discharges are met, EPA has issued a "Policy for the Development of Water Quality-Based Permit Limitations for Toxic Pollutants 49 FR 9016-9019, March 9, 1984." In support of the national policy, Region 6 adopted the "Policy for Post Third Round NPDES Permitting" and the "Post Third Round NPDES Permit Implementation Strategy" on October 1, 1992. The Regional policy and strategy are designed to insure that no source will be allowed to discharge any wastewater which (1) results in instream aquatic toxicity; (2) causes a violation of an applicable narrative or numerical State water quality standard resulting in nonconformance with the provisions of [40 CFR 122.44(d)]; (3) results in the endangerment of a drinking water supply; or (4) results in aquatic bioaccumulation which threatens human health.

3. Implementation

The Region is currently implementing its post third round policy in conformance with the Regional strategy. The NPDES permits contain technology-based effluent limitations reflecting the best controls available. Where these technology-based permit limits do not protect water quality or the designated uses, additional water quality-based effluent limitations and/or conditions are included in the NPDES permits. State narrative and numerical water quality standards are used in conjunction with EPA criteria and other available toxicity information to determine the adequacy of technology-based permit limits and the need for additional water quality-based controls.

4. State Water Quality Numerical Standards

a. GENERAL COMMENTS

Stated previously, the Jemez River has designated uses of domestic water supply, cold water aquatic life, irrigation, livestock watering, wildlife habitat and primary contact.

b. REVISED WATER QUALITY STANDARDS

The precertification document issued by the New Mexico Environment Department pursuant to Section 401 of the federal Clean Water Act is based upon the revised water quality standards currently effective under State law. In a letter from Marcy Leavitt (NMED) to Willie Lane (EPA) dated August 4, 2006, the State of New Mexico precertified that the discharge will comply with applicable provisions of Sections 208(e), 301, 302, 303, 306 and 307 of the Clean Water Act and with appropriate requirements of State law upon inclusion of the conditions stated below in the permit.

The NM WQCC adopted new WQS for the State of New Mexico. The revised WQS as amended through February 16, 2006, are available on the NMED's website at http://www.nmenv.state.nm.us/swqb/Standards/20.6.4NMAC.pdf The WQCC established the revised WQS in accordance with, and under authority of, the NM Water Quality Act [Chapter 74, Article 6, NMSA 1978 Annotated]. The WQS have not been approved by EPA in accordance with Section 303 of the CWA.

In accordance with State law, the Water Quality Standards (WQS) were properly filed with the State Records Center and publicly noticed in the NM Register May 13, 2005. The revised WQS became effective under State law on May 23, 2005, and Standards were amended through February 16, 2006. The NMED has a non-discretionary duty to base state certification of federal water quality permits on applicable requirements of State law.

The agency is constrained by the Alaska Rule [Alaska Clean Water Alliance v. Clark, No. C96-1762R (W.D. Wash.)] in implementing the new NM WQS, until such time as the revised NM WQS are fully approved by EPA pursuant to Section 303 of the Clean Water Act. However, according to EPA memorandum from Geoffrey H. Grubbs, Director Office of Science and Technology dated September 15, 2000, if a State or tribe bases a section 401 certification on the more stringent state requirement, as allowed under CWA section 401(d), EPA would put the effluent limitations specified in the certification into an EPA-issued permit.

The Region, where appropriate, will draft permits with the new standards in place. If the new standards make more restrictive a limit, a compliance schedule will be placed in the permit. If a new parameter were added to the standards that would be added to the permit, then it would also get a compliance schedule. If the standard were less stringent than the currently approved standard, the Region would put the effluent limitation specified in the current Standards, until EPA approves the revised Standards. In addition, if the Region were required under a 401 certification to replace an effluent limitation of a pollutant for another effluent limitation of similar nature, the agency would include effluent limitations of both pollutants until the agency

approves the revised Standards. However, the agency will grant a compliance schedule to allow the permittee sufficient time to achieve effluent limitation for the new parameter.

c. PERMIT ACTION - WATER QUALITY-BASED LIMITS

Regulations promulgated at [40 CFR 122.44(d)] require limits in addition to, or more stringent than effluent limitation guidelines (technology based). NM WQS that are applicable for this discharge are based on 20.6.4 NMAC.

i. pH

Stream segment specific (20.6.4.107 NMAC) WQS for pH, 6.6 to 8.8 standard units, are more restrictive than the technology-based limits presented earlier, the draft permit will propose the water quality limits in the draft permit. These limits are more restrictive than the previous permit.

ii. Bacteria

Stream segment specific WQS for E. coli bacteria are 126 cfu/100 ml monthly geometric mean and 410 cfu/100 ml daily maximum. These are new standards that are subject to the Alaska rule cited above. The facility shall have six-months to achieve compliance with these water quality limits. The existing FCB limits are also proposed at the same limits as the current permit. FCB limits are 200 cfu/100 ml monthly geometric mean, 400 cfu/100 ml daily maximum. When the E. coli WQS are approved by EPA, the permittee may eliminate the FCB from sampling and monitoring.

iii. Temperature

Stream segment specific WQS for temperature are a daily maximum of 25º C (77º F). WWTP do not contribute to temperature as their processes do not add heat, and there are no industrial sources that add heat to the discharge. The draft permit will not establish temperature permit limitations based on this standard.

iv. Toxics

The Clean Water Act in Section 301 (b) requires that effluent limitations for point sources include any limitations necessary to meet water quality standards. Federal regulations found at [40 CFR 122.44 (d)] state that if a discharge poses the reasonable potential to cause an in-stream excursion above a water quality criterion, the permit must contain an effluent limit for that pollutant.

The previous permit had report requirements for both total and dissolved aluminum. The attached spreadsheet shows the dissolved aluminum concentrations listed above evaluated against state WQS. The spreadsheet shows that aluminum does not pose a threat to exceed WQS for aluminum. A total maximum daily load (TMDL) for the Jemez River was completed in 1999 for aluminum. The TMDL did not establish point source loading limits for aluminum and

concluded that aluminum in the Jemez River was solely from non-point sources. The previous permit did however have "Report" requirements for both total and dissolved aluminum, providing data for a pending TMDL update. Those "Report" requirements will be continued in this draft permit.

The previous permit had limitations of 19 ug/l for total residual chlorine (TRC), and this will be continued in the draft permit.

v. TMDL Requirements

Three TMDL studies have been completed on the receiving stream. The first study approved by EPA December 2, 1999, was for stream bottom deposits. The second TMDL was approved June 3, 2003 for chronic aluminum. The most recent TMDL was approved July 30, 2004, which was a revision of the stream bottom deposits TMDL previously approved in December, 1999.

The stream bottom deposits TMDL update included daily maximum daily load limitations based on 7-day average secondary treatment concentrations of 45 mg/l. The technology-based concentration limits above will be protective of the TMDL requirements.

The TMDL did not establish water quality based effluent limitations for aluminum. The draft permit will continue the "Report" condition for this permit cycle to better address the potential impact of the facility on the receiving stream.

vi. Previous Permit – Antidegradation History

The previous permit has mass limitations for BOD_5 and TSS of 11.3 lbs 30-day average for both parameters. These limits were based on an earlier, smaller design flow rate. The facility previously agreed that it did not need the new loading limits, and the previous permit maintained the lower mass limitations for BOD_5 and TSS. The permittee has stated that they would accept a lower loading limit for both BOD_5 and TSS, thus avoiding the full antidegradation review. The draft permit, consistent with [40 CFR 122.45 (f)], mass limitations, will establish mass limits for the 7-day average for both BOD_5 and TSS. The TMDL noted above established a 25% margin of safety (MOS) between the 30-day average and the 7-day average. Using the MOS as a guideline, the 7-day average mass limits for BOD_5 and TSS are each 14.1 lbs. These limitations will be placed in the draft permit as water quality based. The water quality limits for the discharge is as follows:

EFFLUENT CHARACTERISTICS Parameter	30-Day Avg lbs/day	7-Day Avg lbs/day	Daily Max (*1) lbs/day	30-Day Avg mg/l (*2)	7-Day Avg mg/l (*2)	Daily Max mg/l (*2)
BOD_5	11.3	14.1	N/A	30	45	N/A
TSS	11.3	14.1	N/A	30	45	N/A
TRC	N/A	N/A	N/A	N/A	N/A	19 ug/l
Aluminum, total	N/A	N/A	N/A	N/A	N/A	Report
Aluminum, dissolved	N/A	N/A	N/A	N/A	N/A	Report
E. coli bacteria, cfu's (*3)	N/A	N/A	N/A	410 cfu's	N/A	126 cfu's
Fecal coliform bacteria, cfu's (*3)	N/A	N/A	N/A	400 cfu's	N/A	200 cfu's
pH	N/A	N/A	N/A	6.6 – 8.8 standard units		

FOOTNOTE:
*1 Same as monthly average.
*2 Unless noted.
*3 Cfu's, colony forming units/100 ml.

5. Monitoring Frequency for Limited Parameters

Regulations require permits to establish monitoring requirements to yield data representative of the monitored activity [40 CFR 122.48(b)] and to assure compliance with permit limitations [40 CFR 122.44(i)(1)]. The monitoring frequencies are based on BPJ based on the facility's flow rate. BOD_5, TSS and pH are proposed in the draft permit to be sampled once/month. Total and dissolved aluminum are proposed to be sampled once/six-months. The new parameter E. coli is proposed to be monitored at once/month. When E. coli bacteria has been approved as the WQS, the facility may discontinue monitoring and reporting for FCB. Since FCB is soon to be eliminated as the bacteria WQS, monitoring for FCB shall be once/quarter. TRC shall be monitored once per day when chlorine is used for bacteria control in the effluent.

6. Whole Effluent Toxicity Limitations

a. GENERAL COMMENTS

The State has established narrative criteria, which in part state that:

"...surface waters of the state shall be free of toxic pollutants from other than natural causes in amounts, concentrations or combinations that affect the propagation of fish or that are toxic to humans, livestock or other animals, fish or other aquatic organisms, wildlife using aquatic environments for habitation or aquatic organisms for food, or that will or can reasonably be expected to bioaccumulate in tissues of fish, shellfish and other aquatic organisms to levels that will impair the health of aquatic organisms or wildlife or result in unacceptable tastes, odors or health risks to human consumers of aquatic organisms...." (NM WQS Section 20.6.4.13.F.)
The Implementation Guidance for NM Standards state that:

In a letter from Marcy Leavitt, NMED, to Claudia Hosch, EPA, December 16, 2005, NMED provided Narrative Toxics Implementation Guidance – Whole Effluent Toxicity, (NTIG-WET), an update to the 1995 Implementation Guidance. The designated use of stream segment 20.6.4.107 is cold water aquatic life. The previous permit reported a 4Q3 for the Jemez River of 5.612 MGD. The design flow for the facility is 0.075 MGD. The critical dilution is calculated as:

$C_d = (Q_e \div (FQ_a + Q_e)$

Where:
Q_e = the treatment facility flow determined above, 0.075 MGD
Q_a = the critical low-flow determined above, 5.612 MGD
F = the fraction of stream allowed for mixing, and for site specific streams, when conditions such as climatic conditions, channel characteristics and morphology are not known, a value of 1.0 is used.

C_d = (0.075 ÷ {(1.0*5.612) + 0.075}
C_d = 0.013 (1.3%)

Since the critical dilution is less than 10%, in lieu of using a 7-day chronic test at 1.3%, the facility will do a less expensive acute test using a 10:1 acute-to-chronic ratio. The biomonitoring test will be an acute test using a 13% critical dilution. The effluent concentrations using a 75% dilution series are 5%, 7%, 10%, 13%, and 17%. The test species will be the Pimephales promelas and Daphnia pulex. The test frequency will be once per permit term, with the test to occur between November 1 and April 30.

EFFLUENT CHARACTERISTIC	DISCHARGE MONITORING 30-DAY AVG MINIMUM	48-Hr. MINIMUM
Whole Effluent Toxicity Testing (48 Hr. Static Renewal) (*1)		
Daphnia pulex	REPORT	REPORT
Pimephales promelas	REPORT	REPORT

EFFLUENT CHARACTERISTIC	MONITORING REQUIREMENTS FREQUENCY	TYPE
Whole Effluent Toxicity Testing (48 Hr. Static Renewal) (*1)		
Daphnia pulex	1/Permit Term	24-Hr. Composite
Pimephales promelas	1/Permit Term	24-Hr. Composite

FOOTNOTES:
*1 Monitoring and reporting requirements begin on the effective date of this permit. See Part II, Whole Effluent Toxicity Testing Requirements for additional WET monitoring and reporting conditions.

XIII. 303(d) LIST

Three TMDLs have been completed for the Jemez River. The limitations that the TMDL approved are contained in the sections above. The standard reopener language in the permit allows permit conditions to be changed if a future TMDL is done or an existing one is modified.

XIV. ANTIDEGRADATION

The NMAC, Section 20.6.4.8 “Antidegradation Policy and Implementation Plan” sets forth the requirements to protect designated uses through implementation of the State water quality standards. The limitations and monitoring requirements set forth in the proposed permit are developed from the State water quality standards and are protective of those designated uses. Furthermore, the policy sets forth the intent to protect the existing quality of those waters, whose quality exceeds their designated use. The permit requirements and the limits are protective of the assimilative capacity of the receiving waters, which is protective of the designated uses of that water, NMAC Section 20.6.4.8.A.2. Previously, the permittee requested that the previous loading limits for TSS and BOD_5 be established in the permit. The loading limits for both TSS and BOD_5, 11.3 lbs 30-day average, contained in the permit issued January 22, 1985, with an effective date of January 23, 1985, and an expiration date of January 22, 1990, were based on a

design flow of 0.045 MGD. The 11.3 lbs will be retained in the permit at the direction of the permittee. The proposed draft permit limitations will reflect this change.

XV. ANTIBACKSLIDING

The proposed permit is consistent with the requirements to meet Antibacksliding provisions of the Clean Water Act, Section 402(o) and [40 CFR 122.44(l)(i)(A)], which state in part that interim or final effluent limitations must be as stringent as those in the previous permit, unless material and substantial alterations or additions to the permitted facility occurred after permit issuance which justify the application of a less stringent effluent limitation. The proposed permit maintains the requirements of the previous permit with the exception of revised limitations identified for pH. This revision is allowed in accordance with the referenced regulations as the facility has recently significantly altered the treatment process to include sequencing batch reactors. Further, application of the identified pH ranges represents permit requirements that are consistent with the WQS and with WQMP.

Comment [LG4]: First time permit language uses: The proposed permit is a first-time issuance.

XVI. ENDANGERED SPECIES CONSIDERATIONS

According to the most recent county listing available at US Fish and Wildlife Service (USFWS), Southwest Region 2 website, http://ifw2es.fws.gov/EndangeredSpecies/lists/, five species in Sandoval County are listed as endangered or threatened. The Black-footed ferret (*Mustela nigripes*), Rio Grande silvery minnow (*Hybognathus amarus*), and the Southwestern willow flycatcher (*Empidonax traillii extimus*) are listed as endangered. The Bald eagle (*Haliaeetus leucocephalus*) and the Mexican spotted owl (*Strix occidentalis lucida*) are listed as threatened.

EPA previously determined during the August 2004 reissuance of the Village of Jemez Springs NPDES discharge permit that the authorized discharges would have “no effect” on the Black-footed ferret, the Rio Grande silvery minnow, the Southwestern willow flycatcher, the Bald eagle, the Mexican spotted owl, the mountain plover and the mountain plover, a species not on the current list. EPA issued this determination in the November 2004 fact sheet for the current permit. EPA received no comments from the public during the public comment period in 2004 regarding EPA’s “no effect” determination. The draft permit limits the discharge of pollutants to levels required by the New Mexico Water Quality Standards. The limits imposed by the standards are established to be protective for uses of livestock watering, wildlife habitat, coldwater fisheries, primary contact and irrigation. Further, EPA has required whole effluent toxicity (WET) limitations on the discharge which will limit potential toxicity due to synergistic, additive and antagonistic effects as well as due to toxicity degradation and persistence. Based on toxicity sensitivity assessments, EPA believes that toxicity testing on both the invertebrate and vertebrate surrogate species prescribed by EPA standard methods and included in this permit will sufficiently identify potential toxicity to the listed threatened and endangered species. EPA has determined that the reissuance of the NPDES discharge permit will have “no effect” on listed threatened and endangered species nor will the discharge destroy or adversely modify designated critical habitat.

XVII. HISTORICAL and ARCHEOLOGICAL PRESERVATION CONSIDERATIONS

The reissuance of the permit should have no impact on historical and/or archeological sites since no construction activities are planned in the reissuance.

XVIII. PERMIT REOPENER

The permit may be reopened and modified during the life of the permit if relevant portions of New Mexico's Water Quality Standards for Interstate and Intrastate Streams are revised or remanded by the New Mexico Water Quality Control Commission. In addition, the permit may be reopened and modified during the life of the permit if relevant procedures implementing the Water Quality Standards are either revised or promulgated by the New Mexico Environment Department. Should the State adopt a State water quality standard, and/or develop or amend a TMDL, this permit may be reopened to establish effluent limitations for the parameter(s) to be consistent with that approved State standard and/or water quality management plan, in accordance with [40 CFR 122.44(d)]. Modification of the permit is subject to the provisions of [40 CFR 124.5].

XIX. VARIANCE REQUESTS

No variance requests have been received.

XX. CERTIFICATION

The permit is in the process of certification by the State agency following regulations promulgated at [40 CFR 124.53]. A draft permit and draft public notice will be sent to the District Engineer, Corps of Engineers; to the Regional Director of the U.S. Fish and Wildlife Service and to the National Marine Fisheries Service prior to the publication of that notice.

XXI. FINAL DETERMINATION

The public notice describes the procedures for the formulation of final determinations.

XXII. ADMINISTRATIVE RECORD

The following information was used to develop the proposed permit:

A. APPLICATION(s)

EPA Application Form 2A received July 5, 2006.

B. 40 CFR CITATIONS

Sections 122, 124, 125, 133, 136

C. STATE OF NEW MEXICO REFERENCES

New Mexico State Standards for Interstate and Intrastate Surface Water, 20.6.4 NMAC, as amended through February 16, 2006.

Region 6 Implementation Guidance for State of New Mexico Standards for Interstate and Intrastate Stream, May 1995.

Statewide Water Quality Management Plan, December 17, 2002.

State of New Mexico 303(d) List for Assessed Stream and River Reaches, 2004 -2006.

D. MISCELLANEOUS REFERENCES

EPA Region 6 "Policy for Post Third Round NPDES Permitting" and "Post Third Round NPDES Permit Implementation Strategy," October 1, 1992.

Letter from Marcy Leavitt, NMED to Willie Lane, EPA, August 4, 2006, State General Certification for Village of Jemez Springs.

Comment [LG5]: DATE